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ARBITRATION - MEDIATION - FACT FINDING

October 23, 2000

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Assistant Director of Labor Relations
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RE: PLB 6170 Award 4 Clarification

Gentlemen:

We have carefully reviewed the matter concerning vacation payment for Claimant J.C. Bolton. The record indicates Claimant was paid four weeks vacation for 1998. His 25 year anniversary on September 1, 1998, entitled him to one additional week. The Carrier withheld payment for five weeks in 1999 and 2000, claiming that Mr. Bolton didn't have enough credited work days during those years. It seems that the Carrier's timekeeping department relied on a BRT Agreement - BRT-58-E as an authoritative precedent. Their quick reading of BRT-58-E lead to the misinterpretation that employees removed from service and subsequently reinstated with back pay have not rendered service during the dismissal period for the purpose of qualifying for vacation.

The proper reading of BRT-58-E indicates that those words arose when an employee who had claimed permanent injury secured a monetary settlement and was thereafter estopped from vacation pay.

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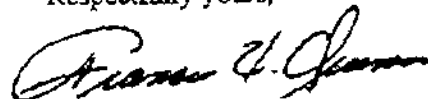
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The instant case is easily distinguishable. In Awards 1599 and 2360 of SBA 235, this issue was clarified. When Claimant was adjudged to have been removed from service improperly, he was reinstated with all rights and benefits unimpaired. He was compensated for any and all time lost. Compensation includes vacation. It makes no sense to argue that Claimant does not receive his entitled vacation pay. The scales of justice would not be restored to their designated balanced equilibrium. The normal make-whole remedy entitles the Claimant to be placed in the same position he would have occupied had the improper discharge not occurred. See Award 10 of PLB 4083 and Award 23 of PLB 4515.

Award 4 of PLB 6170 leaves no doubt about the intention and meaning of the Board. It was the finding of that Board that Claimant J.C. Bolton was returned to service with all seniority and vacation rights restored he was due and would have earned had he not been improperly held out of service. That includes vacation pay.

Respectfully yours,



Francis X. Quinn
Chairman and Neutral Member

FXQ/ck